

## **REMARKS**

### **REJECTIONS UNDER 35 U.S.C. § 102**

Claims 1, 5, 7-8, 12-18, 20, 23, 25, 27-29, 31, 34-36, 39 and 42-43 were rejected under 35 U.S.C. § 102(a) as being anticipated by NPL1 to Dessiatnikov “Securing SZL Connection String”(GIAC Security Essentials Certification Practical Assignment – version 1.4b Option 1 SANS Institute January 8, 2004) (*Dessiatnikov*). Applicant submits claims 1, 5, 7-8, 12-13, 17-18, 20, 23, 25, 27-29, 31, 34-36, 39 and 42-43 are not anticipated *Dessiatnikov* for at least the reasons set forth below.

Claim 1 has been amended to recite, in part, the following:

automatically requesting database connection information to a database **during initialization of a** web application server;  
accessing a key phrase from a **central directory of a distributed system** responsive to the request for the connection information;

Independent claims 18, 31, 36 and 39 recite similar limitations. The Office action cites *Dessiatnikov* as disclosing the limitations of claim 1.

Specifically, the Office action states that *Dessiatnikov* discloses automatically requesting database connection information from a web server to a database upon initialization of the web application server. While Applicant disagrees that *Dessiatnikov* disclose the cited limitations, Applicant submits that whether or not *Dessiatnikov* discloses the above-cited limitations, *Dessiatnikov* fails to disclose automatically requesting database connection information to a database ***during initialization*** of the web application server. The sparse details in *Dessiatnikov* certainly do not expressly disclose requesting database connection information ***during initialization*** of a web application server. Thus, the Office action must rely on inherency to support its assertion.

The Manual of Patent Examining Procedure (MPEP) § 2131 states, “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). MPEP § 2112 further states, “The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic.” *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (emphasis added). Thus, in relying upon the theory of inherency, “the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.” *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Additionally, MPEP § 2112 states, “To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.’” *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

In this particular case, the Office action has not provided, nor can Applicant find in the reference, any facts or technical reasoning to support an assertion that *Dessiatnikov* necessarily discloses requesting database connection information **during initialization** of a web application server. Thus, for at least this reason, Applicant submits the Office action fails to establish inherency. Accordingly, Applicant submits claims 1, 18, 31, 36

and 39 are not anticipated by *Dessiatnikov* at least for the reason that *Dessiatnikov* fails to disclose automatically requesting database connection information *during initialization* of a web application server.

Furthermore, Applicant submits *Dessiatnikov* fails to disclose combining a system identifier and a key phrase to create an encryption key. The Office action asserts that the *Dessiatnikov* discloses combining a system identifier with the key phrase to encrypt data, citing *Dessiatnikov* § Encrypting data, Par. 4. However, the cited portion of *Dessiatnikov* merely discusses user-specific and machine-specific encryption keys. *Dessiatnikov* does not disclose how those encryption keys are created. *Dessiatnikov* certainly fails to expressly disclose combining a system identifier and a key phrase (accessed from a central directory of a distributed system) to create an encryption.

Applicant submits that combining a system identifier with a key phrase accessed from a central directory of a distributed system is not inherent in *Dessiatnikov*. As discussed above, inherency may not be established by probabilities or possibilities. Inherency requires that the allegedly inherent characteristic necessarily flows from the teachings of the reference. It does not necessarily flow from *Dessiatnikov* that a user-specific or machine-specific encryption key must be generated by combining a system identifier with a key phrase that has been accessed from a central directory of a distributed system. Applicant can imagine numerous different ways in which an encryption key could be created without combining a system identifier and a key phrase that has been accessed from a central directory of a distributed system (e.g., an encryption key could be generated using a random number generator). Therefore, Applicant submits *Dessiatnikov* fails to disclose combining a system identifier with a key

phrase that is accessed from a central directory of a distributed system to create an encryption key. Accordingly, Applicant submits claims 1, 18, 31, 36 and 39 are not anticipated by *Dessiatnikov*.

Applicant submits the remaining dependent claims are also not anticipated by *Dessiatnikov* for at least the same reasons claims 1, 18, 31, 36 and 39 are not anticipated.

#### REJECTIONS UNDER 35 U.S.C. § 103

Claim 30 was rejected under 35 U.S.C. § 102(a) as being obvious in view of *Dessiatnikov* and further in view of U.S. Patent Publication No.: 2003/0105977 to Brabson et al. (*Brabson*). Claim 30 depends from claim 18 and necessarily includes the limitations of the independent claim. Similar to the discussion above, *Dessiatnikov* fails at least to disclose automatically requesting database connection information to a database during initialization of the web application server and combining a system identifier and a key phrase that is accessed from a central directory of a distributed system to create an encryption key. Whether or not *Brabson* discloses the limitations cited in the Office action, which Applicant does not concede, *Brabson* does not cure the deficiencies of *Dessiatnikov*. Accordingly, Applicant submits claim 30 is not obvious in view *Dessiatnikov* and *Brabson*.

CONCLUSION

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 1, 5, 7-8, 12-18, 20, 23, 25, 27-29, 31, 34-36, 39 and 42-43 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,  
**BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP**

Date: December 9, 2008

/Jared S. Engstrom/  
Jared S. Engstrom  
Reg. No. 58,330  
Attorney for Applicant

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(503) 439-8778

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

Date: December 9, 2008

/Katherine Jennings/  
Katherine Jennings